

A bill for an act

relating to health occupations; establishing licensure for medical laboratory science professionals; establishing the medical laboratory science professional licensing advisory council; establishing fees; proposing coding for new law as Minnesota Statutes, chapter 148F.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[148F.01] DEFINITIONS.**

Subdivision 1. Applicability. For purposes of this chapter, the following terms have the meanings given them.

Subd. 2. Accredited medical laboratory educational program. "Accredited medical laboratory educational program" means a program to provide instruction and experience in medical laboratory science that has been accredited by an accrediting agency recognized by the United States Department of Health and Human Services.

Subd. 3. CLIA. "CLIA" means Clinical Laboratory Improvement Amendments of 1988 and includes Public Law 100-578 and Code of Federal Regulations, title 42, section 493. CLIA regulations provide a minimum foundation for which personnel standards for entry level technical personnel in this state are built. Qualifications and responsibilities for laboratory director, technical supervisor, and technical consultant are as specified in CLIA regulations. All clinical laboratory personnel are under the supervision, control, and responsibility of the laboratory director.

Subd. 4. Commissioner. "Commissioner" means the commissioner of health or the commissioner's designee.

Subd. 5. Cytotechnologist. "Cytotechnologist" means an individual who specializes in the cellular analysis of patient samples from all body sites, for the purpose of evaluating, detecting, and providing diagnostic and prognostic information regarding

disease processes, including those that require the exercise of independent technical judgment, and who:

(1) assists health care providers with the collection, detection, and interpretation of normal and abnormal cells, infectious agents, and other noncellular material from submitted specimens;

(2) performs a variety of medical laboratory tests to ascertain information to help in classification, prognosis, or disease detection, including, but not limited to, immunohistochemical and molecular techniques;

(3) establishes and implements protocols, quality control, method selection, equipment selection and maintenance, and activities related to the preanalytic, analytic, and postanalytic phases of testing; and

(4) may direct, supervise, consult, and educate and perform research functions.

Subd. 6. **Histotechnician.** "Histotechnician" means an individual who:

(1) prepares tissue specimens for microscopic examination;

(2) monitors, performs, selects, develops, evaluates, correlates, and ensures accuracy and validity of laboratory testing and procedures including, but not limited to, techniques in fixation, processing, embedding, microtomy, cryotomy, ultramicrotomy, and staining;

(3) prepares gross specimens as defined by and under the direction of a board-certified pathologist;

(4) establishes and implements protocols, quality assurance, and quality control related to the following procedures: histochemical, immunohistochemical, electron microscopy, cytopreparation, in situ hybridization, enzyme histochemical, DNA hydrolysis, laser capturing, molecular techniques, and research; and

(5) participates in method selection, development, equipment selection and maintenance, and activities related to the preanalytical and analytical phases of tissue preparation.

Subd. 7. **Histotechnologist.** "Histotechnologist" means an individual who:

(1) prepares tissue specimens for microscopic examination;

(2) monitors, performs, selects, develops, evaluates, correlates, and ensures accuracy and validity of laboratory testing and procedures including, but not limited to, techniques in fixation, processing, embedding, microtomy, cryotomy, ultramicrotomy, and staining;

(3) prepares gross specimens as defined by and under the direction of a board-certified anatomic pathologist;

(4) establishes and implements protocols, quality assurance, and quality control related to the following procedures: histochemical, immunohistochemical, electron

microscopy, cytopreparation, in situ hybridization, enzyme histochemical, DNA hydrolysis, laser capturing, molecular techniques, and research;

(5) establishes and implements new protocols and procedures dealing directly in quality assessment, method development, and equipment selection and maintenance and all activities related to preanalytical and analytical phases of tissue preparation; and

(6) may direct, supervise, consult, educate, and perform research functions.

Subd. 8. Independent medical judgment. In the laboratory, "independent medical judgment" is exercised only by a pathologist or other licensed physician in the diagnosis and treatment decisions related to clinical laboratory tests.

Subd. 9. Independent technical judgment. "Independent technical judgment" means the performance or conduct of clinical laboratory tests and assumption of responsibility for determination of the validity of clinical laboratory test results without intervention by or under the supervision of another health care provider authorized by law to assume responsibility for the conduct and validity of clinical laboratory tests.

Subd. 10. Medical laboratory or laboratory. "Medical laboratory" or "laboratory" means any facility or office in Minnesota in which medical laboratory tests are performed.

Subd. 11. Medical laboratory scientist or generalist. "Medical laboratory scientist" or "generalist" means an individual eligible for licensure under this chapter who:

(1) performs medical laboratory tests, including tests that require the exercise of independent technical judgment;

(2) establishes and implements protocols, quality assessment, method development and selection, equipment selection and maintenance, and all activities related to the preanalytic, analytic, and postanalytic phases of laboratory testing; and

(3) may direct, supervise, consult, educate, and perform research functions.

Subd. 12. Categorical medical laboratory scientist. "Categorical medical laboratory scientist" means an individual eligible for licensure under this chapter who performs the functions of a medical laboratory scientist in one or more of the following areas of the laboratory depending upon the certification examinations passed: chemistry, hematology, immunohematology, and microbiology.

Subd. 13. Medical laboratory specialist. "Medical laboratory specialist" means an individual certified and eligible for licensure in one of the categories described in subdivisions 14, 15, and 16 under this chapter to perform testing including the tests that require the exercise of independent technical judgment needed to establish and implement protocols, quality assessment, method development and selection, equipment selection and maintenance, and all activities related to the preanalytic, analytic, and postanalytic

phases of laboratory testing, and who direct, supervise, consult, and educate in a specific specialized section of the laboratory.

Subd. 14. Medical laboratory specialist in cytogenetics. "Medical laboratory specialist in cytogenetics" means an individual eligible for licensure under this chapter to perform standard cytogenetic and molecular testing procedures used to evaluate possible genetic anomalies.

Subd. 15. Medical laboratory specialist in molecular biology/pathology. "Medical laboratory specialist in molecular biology/pathology" means an individual eligible for licensure under this chapter to perform all aspects of molecular analysis including, but not limited to, recombinant DNA technology, polymerase chain reaction, and hybridization techniques.

Subd. 16. Medical laboratory specialist in histocompatibility. "Medical laboratory specialist in histocompatibility" means an individual eligible for licensure under this chapter to perform histocompatibility testing procedures including, but not limited to, molecular and serological techniques.

Subd. 17. Medical laboratory technician. "Medical laboratory technician" means an individual eligible for licensure under this chapter who performs medical laboratory tests according to established and approved protocols and requiring limited exercise of independent technical judgment.

Subd. 18. Medical laboratory test or laboratory test. "Medical laboratory test" or "laboratory test" means a microbiological, serological, chemical, biological, hematological, immunological, immunohematological, radiobioassay, cytological, histological preparation, molecular, biophysical, or any other test or procedure performed on material derived from or existing in a human body, which provides information for the diagnosis, prevention, or monitoring of a disease or impairment or assessment of a medical condition. A medical laboratory test includes components of the preanalytic and postanalytic phases of testing, as well as the analytic phase, which occurs in the laboratory.

Subd. 19. Medical laboratory subspecialists. "Medical laboratory subspecialists" means an individual eligible for licensure under this chapter to perform the functions of a medical laboratory scientist in a subspecialty or esoteric clinical laboratory that is not one of the general categorical areas of the laboratory. The subspecialty/esoteric laboratories may be disease or medical specialty-oriented or utilize advanced technology not routinely used in the clinical laboratory. These subspecialty/esoteric laboratories may be subspecialized areas within the hematology, chemistry, immunology, transfusion, medicine, genetics, or microbiology disciplines.

Subd. 20. **Nationally recognized certification agency.** "Nationally recognized certification agency" means an agency that provides certification exams for medical laboratory professionals. As the agency defines new certification examinations, the commissioner and the advisory council may recognize these examinations.

Subd. 21. **Pathologist's assistant.** "Pathologist's assistant" means an individual specializing in prediagnostic surgical pathology and autopsy pathology who assists pathologists.

Subd. 22. **Phlebotomist.** "Phlebotomist" means an individual who is qualified to obtain blood samples for testing by means of venipuncture, capillary puncture, or access of venous access devices, to perform specimen processing and preparation of samples for testing, and to perform waived and point-of-care testing.

Subd. 23. **Point-of-care testing.** "Point-of-care testing" means analytical patient testing activities provided within a facility, which do not require permanent dedicated space including, but not limited to, analytic instruments that are temporarily brought to a patient care location. Point-of-care testing must be under the direction of an individual licensed under this chapter at the baccalaureate degree level or who qualifies as a laboratory director under federal CLIA regulations.

Subd. 24. **Trainee/student.** "Trainee/student" means an individual who has not fulfilled the educational requirements to take an approved nationally recognized certification examination or who needs to obtain full-time comprehensive experience under supervision.

Subd. 25. **Waived test.** "Waived test" means a laboratory examination or procedure as determined by the United States Food and Drug Administration which has an insignificant risk of an erroneous result, including those which:

(1) have been approved by the United States Food and Drug Administration for home use;

(2) employ methodologies that are so simple and accurate as to render the likelihood of erroneous results negligible; or

(3) pose no reasonable risk of harm to the patient if performed incorrectly.

Sec. 2. **[148F.02] EXCEPTIONS.**

(a) This chapter does not apply to:

(1) the qualifications for laboratory directors, technical supervisors, or technical consultants as established by federal CLIA;

(2) other licensed or registered professionals performing functions within the professional's scope of practice;

(3) medical laboratory science professionals employed by the United States government, or any bureau, division, or agency, while performing duties within the scope of the professional's federal employment;

(4) medical laboratory science professionals engaged exclusively in basic science or investigative research, provided that the results of any examination performed are not used in health maintenance, diagnosis, or treatment of disease as described in federal CLIA regulations under Code of Federal Regulations, title 42, section 493;

(5) professionals engaged exclusively in assay development or management-related activities in the clinical laboratory, provided the results of any examination performed are not used in health maintenance, diagnosis, or treatment of disease as described in federal CLIA regulations;

(6) professionals engaged exclusively in the education of medical laboratory science professionals, provided that results of any examination performed are not used in health maintenance, diagnosis, or treatment of disease as described in federal CLIA regulations;

(7) professionals engaged exclusively in providing phlebotomy services;

(8) pathologist's assistants or individuals performing pathology assistant activities under supervision by pathologists;

(9) cytotechnologists, which fall under the federally mandated CLIA personnel certification requirements;

(10) histotechnicians and histotechnologists;

(11) students or trainees enrolled in a medical laboratory science education program provided that:

(i) the activities performed by the student or trainee constitute a part of a planned course in the program;

(ii) the student or trainee is clearly designated as intern, trainee, or student; and

(iii) the student or trainee is working directly under an individual licensed under this chapter to practice medical laboratory science;

(12) individuals who only perform waived tests or moderately complex point-of-care tests under the direction of a qualified CLIA laboratory director according to federal CLIA regulations; and

(13) individuals who perform moderately complex testing as defined by federal CLIA regulations provided that the laboratory complies with the following requirements:

(i) within the laboratory, a licensed medical laboratory scientist or individual who qualifies as a laboratory director under federal CLIA regulations is responsible for:

(A) designing, providing, and supervising the training programs for the testing personnel;

(B) supervising and monitoring the quality assurance and quality control activities of the testing site;

(C) assisting in the selection of technology;

(D) reviewing the results of proficiency testing and recommending corrective action, if necessary; and

(E) monitoring the continued laboratory testing competency of the testing personnel;

(ii) documented personnel evaluation processes are in place, which ensure and document the continued competency of the testing personnel; and

(iii) after the effective date of this chapter, the licensed medical laboratory scientist or individual who qualifies as a laboratory director under CLIA regulations must ensure that new employees have initial certification as a certified or registered medical assistant or certified office laboratory technician, by the American Medical Technologists (AMT) or the American Association of Medical Assistants (AAMA) or other national certification agency recognized by the commissioner. Individuals employed as a medical assistant or office laboratory technician on the effective date of this chapter will be grandfathered in. Failure to comply with the requirements described in clause (13) subjects the individual to the requirements of this chapter and requires the individual to be licensed as required under this chapter.

(b) This chapter does not apply to a declared emergency as defined in section 12.03, that reduces laboratory capacity or increases testing demands, or other loss of critical laboratory capacity, practitioners who are not licensed in any state, but are certified by one of the agencies recognized in this chapter or deemed competent by the affected laboratory director may practice as needed in the emergency situation.

Sec. 3. **[148F.03] LICENSURE REQUIRED; TITLES USED, RESTRICTED, AND ALLOWED.**

Subdivision 1. **Unlicensed practice prohibited.** Effective January 1, 2011, no individual shall perform a medical laboratory test unless the individual is licensed under this chapter as a medical laboratory scientist, categorical medical laboratory scientist, medical laboratory technician, medical laboratory specialist in cytogenetics, medical laboratory specialist in molecular biology/pathology, or medical laboratory specialist in histocompatibility, medical laboratory subspecialist, or is exempt from licensure under section 148F.02.

Subd. 2. **Protected titles and restrictions on use.** No individual shall use the phrase medical laboratory scientist, categorical medical laboratory scientist, medical laboratory technician, medical laboratory specialist in cytogenetics, medical laboratory specialist

in molecular biology/pathology, or medical laboratory specialist in histocompatibility, or medical laboratory subspecialist, or the initials MLS, MLT, alone or in combination with any other words or initials to form an occupational title, or to indicate or imply that the person is licensed as one of the professionals listed in this subdivision unless the individual is licensed under this chapter.

Subd. 3. **Persons licensed or certified in other states.** An individual who is licensed under this chapter and licensed or certified in another state may use the designation licensed or certified with a protected title only if the state of licensure or certification is clearly indicated.

Sec. 4. **[148F.035] SCOPE OF PRACTICE.**

Medical laboratory professionals licensed under this chapter shall perform laboratory tests and provide test results to physicians and patients upon request or upon physician referral. The practice of medical laboratory science includes:

(1) the production of test data;

(2) monitoring the accuracy, precision, and utility of laboratory testing;

(3) analytical correlation and interpretation of test data; and

(4) designing, evaluating, and implementing new laboratory test methods.

The services provided by medical laboratory professionals must be consistent with good practice and sound professional ethics.

Sec. 5. **[148F.04] DUTIES OF THE COMMISSIONER.**

The commissioner, with the advice of the advisory council, shall:

(1) administer the procedures for this chapter, including, but not limited to, verifying the qualifications and standards for education, experience, examinations, and continuing education, as established by the certification agencies recognized in this chapter, and other methods for determining whether an applicant or licensee is qualified, as specified under this chapter;

(2) enforce standards for professional conduct found in the Code of Professional Ethics;

(3) issue licenses to qualified individuals;

(4) collect and deposit fees as established under section 148F.16;

(5) on the recommendation of the advisory council, approve future nationally recognized, validated, competency-based written, oral, or practical examinations developed by the National Credentialing Agency, American Society for Clinical Pathology Board of Registry, American Medical Technologists, and American Society

for Histocompatibility and Immunogenetics, or successor organizations, for purposes of
licensure of medical laboratory science professionals as provided for in this chapter; and
(6) maintain a roster of the names and addresses of individuals currently licensed
under this chapter and of all individuals whose licenses have been disciplined under
this chapter.

Sec. 6. **[148F.05] MEDICAL LABORATORY SCIENCE PROFESSIONAL**
LICENSING ADVISORY COUNCIL.

Subdivision 1. **Membership and qualifications of advisory council.** (a) The
commissioner shall appoint a nine-member advisory council that may include applicants
recommended by laboratory professional associations. Members must be actively
employed for at least two years in their specific area of practice. Members shall serve
two-year terms and until their successors have been appointed.

(b) Four members must be medical laboratory science professionals who are licensed
under this chapter and include:

(1) one nonphysician laboratory director;

(2) one medical laboratory scientist;

(3) one medical laboratory technician; and

(4) one specialist in cytogenetics, histocompatibility, or molecular biology.

(c) Three members must be physicians certified by the American Board of Pathology
or the American Board of Osteopathic Pathology. All three must be certified in clinical
pathology.

(d) One of the members must be a physician who is not a laboratory director and
is not a pathologist.

(e) One member must be a public member as defined in section 214.02.

Subd. 2. **Duties.** The advisory council shall:

(1) advise and make recommendations to the commissioner regarding the medical
laboratory science practitioner licensure standards;

(2) advise the commissioner on enforcement of this chapter;

(3) provide for distribution of information regarding medical laboratory science
practitioners licensure standards;

(4) review applications upon the request of the commissioner and make
recommendations on granting or denying licensure or licensure renewal;

(5) advise the commissioner on issues related to receiving and investigating
complaints, conducting objective hearings, and imposing disciplinary action in relation to
complaints received against medical laboratory science practitioners; and

10.1 (6) perform other duties requested by the commissioner.

10.2 Subd. 3. **Organization.** The advisory council shall be organized and administered
10.3 under section 15.059. The advisory council shall select a chair from its membership.

10.4 Subd. 4. **Support.** The commissioner shall provide the necessary staff support
10.5 and meeting space for the advisory council.

10.6 Subd. 5. **Expiration.** Notwithstanding section 15.059, subdivision 5, this section
10.7 expires June 30, 2013.

10.8 Sec. 7. **[148F.06] TEMPORARY REQUIREMENTS FOR LICENSURE;**
10.9 **TRANSITION PERIOD.**

10.10 Subdivision 1. **Experienced medical laboratory science professionals transition.**

10.11 (a) Notwithstanding section 148F.03, an individual who is certified by or eligible to be
10.12 certified by a certification agency recognized by the commissioner to perform medical
10.13 laboratory testing, or meets the subspecialty requirements in section 148F.07, subdivision
10.14 7, may perform medical laboratory tests without the appropriate license provided the
10.15 individual has applied to the commissioner for licensure and:

10.16 (1) the application has not been denied by the commissioner; or

10.17 (2) the application has not been withdrawn.

10.18 (b) This subdivision expires January 1, 2011.

10.19 Subd. 2. **Employed medical laboratory science professional transition.** (a) An
10.20 individual who does not meet the education, training, and experience qualifications for
10.21 any license described in this chapter on July 1, 2009, has until January 1, 2011, to apply
10.22 for a license under this subdivision.

10.23 (b) The commissioner shall issue a license under this subdivision if the applicant:

10.24 (1) is practicing in the field on July 1, 2009, or has six months of acceptable
10.25 experience of at least half time, 1040 hours per year, in the three years immediately prior
10.26 to July 1, 2009; and

10.27 (2) on a form provided by the commissioner submits the job, title, description of the
10.28 position, and period of employment as attested to by the applicant's employer.

10.29 (c) The commissioner and advisory council shall determine which type of license the
10.30 applicant is eligible for and issue the license if the requirements of this subdivision are met.

10.31 (d) An initial license issued under this subdivision must be reviewed following the
10.32 procedures required under section 148F.10, provided the license is maintained without
10.33 interruption.

10.34 (e) This subdivision expires January 1, 2011.

Sec. 8. **[148F.07] STANDARDS FOR LICENSURE.**

Subdivision 1. Medical laboratory scientist (MLS). The commissioner shall issue a medical laboratory scientist's license to an individual who:

(1) possesses a baccalaureate degree from a regionally accredited college or university and verified by the nationally recognized certification agencies;

(2) has met the medical laboratory experience and training required by the recognized certification agencies; and

(3) passes a nationally recognized certification examination administered by the American Society for Clinical Pathology Board of Registry, the National Credentialing Agency, American Medical Technologists, or successor organizations.

Subd. 2. Medical laboratory scientist, categorical. The board shall issue a categorical medical laboratory scientist's license to an individual who:

(1) possesses a baccalaureate degree from a regionally accredited college or university and verified by the nationally recognized certification agencies;

(2) has met the medical laboratory experience and training required by the recognized certification agencies; and

(3) passes a nationally recognized certification examination administered by the American Society for Clinical Pathology Board of Registry, the National Credentialing Agency, or American Medical Technologists, or successor organizations.

Subd. 3. Medical laboratory technician (MLT). The commissioner shall issue a medical laboratory technician's license to an individual who:

(1) possesses an associate degree from a regionally accredited college or university verified by the nationally recognized certification agencies;

(2) has met the medical laboratory experience and training required by the recognized certification agencies; and

(3) passes a nationally recognized certification examination administered by the American Society for Clinical Pathology Board of Registry, the National Credentialing Agency, or the American Medical Technologists, or successor organizations.

Subd. 4. Medical laboratory specialist in molecular biology. The commissioner shall issue a medical laboratory specialist in molecular biology license to an individual who:

(1) possesses a baccalaureate degree from a regionally accredited college or university verified by the recognized certification agencies;

(2) meets the medical laboratory experience and training required by the nationally recognized certification agencies, or alternatively one year of on-the-job training; and

(3) either passes a nationally recognized certification examination administered by the American Society for Clinical Pathology Board of Registry, the National Credentialing Agency, or successor organizations or is deemed competent via written confirmation by the respective laboratory director.

Subd. 5. Medical laboratory specialist in cytogenetics. The commissioner shall issue a medical laboratory specialist in cytogenetics license to an individual who:

(1) possesses a baccalaureate degree from a regionally accredited college or university verified by the nationally recognized certification agencies;

(2) has met the medical laboratory experience and training required by the nationally recognized certification agencies or alternatively one year of on-the-job training; and

(3) passes a nationally recognized certification examination administered by the National Credentialing Agency or successor organizations or is deemed competent via written confirmation by the respective laboratory director.

Subd. 6. Histocompatibility technologist. The commissioner shall issue a medical laboratory specialist in histocompatibility license to an individual who:

(1) possesses a baccalaureate degree from a regionally accredited college or university verified by the nationally recognized certification agencies;

(2) has met the medical laboratory experience and training required by the nationally recognized certification agencies or alternatively one year of on-the-job training; and

(3) passes a nationally recognized certification examination administered by the American Board of Histocompatibility and Immunogenetics or is deemed competent via written confirmation by the respective laboratory director.

Subd. 7. Medical laboratory subspecialist. The commissioner shall issue a medical laboratory subspecialist license to an individual who:

(1) possesses a baccalaureate from a regionally accredited college or university verified by the recognized certification agencies;

(2) has met the required medical laboratory experience and training through one year of on-the-job training; and

(3) either is deemed competent via written confirmation by the respective laboratory director or passes a nationally recognized certification examination administered by the National Credentialing Agency, Board of Registry, or successor organizations.

Sec. 9. **[148F.08] RECIPROCITY.**

Subdivision 1. Licensure. The commissioner may waive the licensure requirements for an applicant who holds a valid license or its equivalent issued by another state provided that the requirements under which that license or its equivalent was issued are

equivalent to or exceed the standards required by this chapter. Once the license is up for renewal, the applicant shall be issued a Minnesota license upon meeting the license renewal requirements in section 148F.11.

Subd. 2. **Current credentials required.** An applicant applying for licensure by reciprocity must provide all necessary evidence to the commissioner that the applicant holds a current and unrestricted license for the practice of medical laboratory science in another jurisdiction that has requirements equivalent to or higher than the standards required to be licensed as a medical laboratory professional in one of the categories defined in this chapter.

Subd. 3. **Verification of credentials required.** An applicant for licensure under this section must have maintained the appropriate and unrestricted credentials in each jurisdiction during the last five years as demonstrated by submitting letters of verification to the commissioner. Each letter must state the applicant's name, date of birth, credential number, date of issuance, a statement regarding disciplinary actions, if any, taken against the applicant, and the terms under which the credential was issued.

Sec. 10. **[148F.09] TEMPORARY LICENSE REQUIREMENTS.**

(a) The commissioner may issue a temporary license to an applicant who:

(1) is eligible to sit for and registered to take a certification examination or has taken the examination and is awaiting results;

(2) meets the educational requirements of the recognized certification agency and is seeking to qualify for the certification examination by completing the required supervised medical laboratory experience; or

(3) meets the educational requirements for the position and is undergoing the required on-the-job training necessary for a specialized clinical laboratory.

(b) A temporary license shall be issued for a 12-month period and may be renewed for two additional 12-month periods at the discretion of the commissioner, in order to allow the applicant to complete the required supervised medical laboratory experience or retake a certification examination, or be deemed competent by the laboratory director.

(c) A temporary license expires 12 months after it is issued or on the date the commissioner issues or denies a permanent license to the holder.

(d) A temporary license authorizes the holder to perform medical laboratory tests only in the area of practice for which the individual seeks to be permanently licensed.

Sec. 11. **[148F.10] LICENSURE APPLICATION PROCEDURES.**

14.1 (a) Applicants must submit an application for licensure to the commissioner upon
14.2 the forms prescribed and furnished by the commissioner, and must submit with the
14.3 application the designated application fee as specified in section 148F.16.

14.4 (b) Upon receipt of the application and the application fee, the commissioner shall
14.5 issue a license for a medical laboratory scientist, a medical laboratory technician, or
14.6 an appropriate specialty license to an individual who meets the qualifications specified
14.7 in this chapter.

14.8 Sec. 12. **[148F.11] LICENSURE RENEWAL.**

14.9 Subdivision 1. **Renewal term.** Licenses issued under this chapter must be renewed
14.10 every three years. The renewal term is the effective date of the initial license or renewed
14.11 license to the date of expiration of the license.

14.12 Subd. 2. **Renewal applications.** In order to renew a license, a licensee must submit:
14.13 (1) a completed and signed application for renewal on a form prescribed by the board;
14.14 (2) the applicable renewal fee as specified in section 148F.16; and
14.15 (3) documentation that the licensee has completed continuing education requirements
14.16 as prescribed by the recognized certification agencies or 12 hours annually of documented
14.17 continuing education.

14.18 Sec. 13. **[148F.12] LICENSURE FOLLOWING LAPSE OF LICENSURE**
14.19 **STATUS.**

14.20 For an applicant whose licensure status has lapsed, the applicant must:
14.21 (1) apply for licensure renewal according to section 148F.11 and document
14.22 compliance with the continuing education requirements as prescribed by the recognized
14.23 certification agency since the applicant's license lapsed; and
14.24 (2) fulfill the requirements of section 148F.07 and provide evidence of compliance
14.25 with the continuing education requirements as prescribed by one of the recognized
14.26 certification agencies.

14.27 Sec. 14. **[148F.13] CONTINUING EDUCATION REQUIREMENTS.**

14.28 Continuing education requirements shall be as described by the applicable
14.29 certification agencies recognized under this chapter.

14.30 Sec. 15. **[148F.14] INVESTIGATION PROCESS; GROUNDS FOR**
14.31 **DISCIPLINARY ACTION.**

- 15.1 Subdivision 1. **Disciplinary action.** (a) The commissioner may impose disciplinary
15.2 action as described in paragraph (b) against an applicant or licensee whom the
15.3 commissioner, by a preponderance of the evidence, determines:
- 15.4 (1) has violated a statute, rule, or order that the commissioner issued or is empowered
15.5 to enforce;
- 15.6 (2) has been convicted of or pled guilty to a felony, gross misdemeanor, or
15.7 misdemeanor, an essential element of which is dishonesty, or of any crime which is
15.8 directly related to the practice of the profession;
- 15.9 (3) has made a misrepresentation for the purpose of obtaining licensure, either on
15.10 an application provided by the commissioner or in response to oral or written questions
15.11 from the commissioner;
- 15.12 (4) violated the code of professional conduct in subdivisions 2 to 4;
- 15.13 (5) engaged in dishonorable, unethical, or unprofessional conduct of a character
15.14 likely to deceive, defraud, or harm the public;
- 15.15 (6) failed to perform services with reasonable judgment, skill, or safety due to the
15.16 use of alcohol, drugs, or other physical or mental impairment;
- 15.17 (7) aided or assisted another person in violating any provision of this chapter or any
15.18 rule adopted hereunder;
- 15.19 (8) made any misrepresentation with regard to the existence or category of license or
15.20 other certification or professional qualification held in connection with any employment
15.21 application;
- 15.22 (9) intentionally submitted false or misleading information in response to a written
15.23 request by the commissioner or advisory council;
- 15.24 (10) failed, within 30 days, to provide information in response to a written request
15.25 by the commissioner or advisory council;
- 15.26 (11) performed services for which the license is issued in an incompetent manner or
15.27 in a manner that falls below community standards;
- 15.28 (12) violated any provision of this chapter;
- 15.29 (13) been convicted of violating any state or federal law, rule, or regulation which
15.30 directly relates to the practice related to the discipline for which the individual is licensed;
- 15.31 (14) violated a federal or state court order, including a conciliation court judgment,
15.32 or a disciplinary order issued by the commissioner, related to the individual's practice for
15.33 which they are licensed under this chapter;
- 15.34 (15) aided or abetted another person in violating any provision of this chapter;

(16) been disciplined for conduct in the practice of an occupation by the state of Minnesota, another jurisdiction, or a national professional association, if any of the grounds are the same or substantially equivalent to those in this chapter;

(17) not cooperated with the commissioner or the advisory council in an investigation conducted according to this paragraph;

(18) engaged in conduct with a patient that is sexual or may reasonably be interpreted by the patient as sexual, or in any verbal behavior that is seductive or sexually demeaning to a patient; or

(19) any other just cause related to the practice for which they are licensed under this chapter.

(b) If grounds for disciplinary action exist under paragraph (a), the commissioner may take one or more of the following actions:

(1) refuse to grant or renew a license;

(2) revoke a license;

(3) suspend a license;

(4) impose limitations or conditions on a license, including, but not limited to, practice under supervision, continued practice on the demonstration of knowledge or skill by appropriate examination or other review of knowledge, skill, and competence;

(5) censure or reprimand the licensee;

(6) impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the applicant or licensee of any economic advantage gained by reason of the violation charged, to discourage similar violations, or to reimburse the commissioner for the cost of the investigation and proceeding including, but not limited to, fees paid for services provided by the Office of Administrative Hearings, legal and investigative services provided by the Office of the Attorney General, court reporters, witnesses, reproduction of records, advisory council members per diem compensation, staff time, and travel costs and expenses incurred by staff and advisory council members; or

(7) any reasonable lesser action including, but not limited to, censure, reprimand, or restriction on licensure, or any action authorized by statute.

(c) Upon notice from the commissioner denying licensure renewal or upon notice that disciplinary actions have been imposed and the person is no longer entitled to provide the services for which the person was previously licensed under this chapter, the person shall cease to provide the services under this chapter, to use the protected titles pursuant to this chapter, and to represent to the public that the person is licensed by the commissioner.

(d) A person who has had licensure suspended may request and provide justification for reinstatement following the period of suspension specified by the commissioner. The requirement of this chapter for renewing licensure and any other conditions imposed with the suspension must be met before licensure may be reinstated.

(e) The commissioner shall contract with the health professional services program as authorized by sections 214.31 to 214.37 to provide these services to practitioners under this chapter. The health professional services program does not affect the commissioner's authority to discipline violations of this chapter.

Subd. 2. Duty to patient. Medical laboratory professionals shall be accountable for the quality and integrity of the laboratory services they provide.

Medical laboratory professionals shall maintain high standards of practice and sound judgment in establishing, performing, and evaluating laboratory testing.

Medical laboratory professionals shall maintain strict confidentiality of patient information and test results, and shall safeguard the dignity and privacy of patients and provide accurate information to other health care professionals about the services they provide.

Subd. 3. Duty to colleagues and profession. Medical laboratory professionals shall uphold and maintain the dignity and respect of the profession and strive to maintain a reputation of honesty, integrity, and reliability.

Medical laboratory professionals shall actively strive to establish cooperative and respectful working relationships with other health care professionals with the primary objective of ensuring a high standard of care for the patients they serve.

Sec. 16. **[148F.15] REPORTING OBLIGATIONS.**

Subdivision 1. Permission to report. A person who has knowledge of any conduct constituting grounds for disciplinary action under this chapter may report the violation to the commissioner.

Subd. 2. Institutions. A state agency, political subdivision, agency of a local unit of government, private agency, hospital, clinic, prepaid medical plan, or other health care institution or organization located in this state shall report to the commissioner any action taken by the agency, institution, or organization or any of its administrators or medical or other committees to revoke, suspend, restrict, or condition a medical laboratory professional's privilege to practice in the institution, or as part of the organization, any denial of privileges, or any other disciplinary action for conduct that might constitute grounds for disciplinary action by the commissioner under this chapter. The institution, organization, or governmental entity shall also report the resignation of any medical

laboratory science professional before the conclusion of any disciplinary action proceeding for conduct that might constitute grounds for disciplinary action under this chapter, or before the commencement of formal charges but after the practitioner had knowledge that formal charges were contemplated or were being prepared.

Subd. 3. Professional societies. A state or local professional society for medical laboratory science professionals shall report to the commissioner any termination, revocation, or suspension of membership or any other disciplinary action taken against a medical laboratory science professional. If the society has received a complaint that might be grounds for discipline under this chapter against a member on which it has not taken any disciplinary action, the society shall report the complaint and the reason why it has not taken action on it or shall direct the complainant to the commissioner.

Subd. 4. Licensed professionals. A licensed health professional shall report to the commissioner personal knowledge of any conduct that the licensed health professional reasonably believes constitutes grounds for disciplinary action under this chapter by a medical laboratory science professional, including conduct indicating that the individual may be medically incompetent, or may be medically or physically unable to engage safely in the provision of services. If the information was obtained in the course of a client relationship, the client is a medical laboratory science professional, and the treating individual successfully counsels the medical laboratory science professional to limit or withdraw from practice to the extent required by the impairment, the commissioner may deem this limitation of or withdrawal from practice to be sufficient disciplinary action.

Subd. 5. Self-reporting. A medical laboratory science professional shall report to the commissioner any personal action that would require that a report be filed with the commissioner by any person, health care facility, business, or organization under subdivisions 2 to 4. The medical laboratory science professional shall also report the revocation, suspension, restriction, limitation, or other disciplinary action in this state and report the filing of charges regarding the practitioner's license or right of practice in another state or jurisdiction.

Subd. 6. Deadlines; forms. Reports required by subdivisions 2 to 5 must be submitted no later than 30 days after the reporter learns of the occurrence of the reportable event or transaction. The commissioner may provide forms for the submission of the reports required by this section, may require that reports be submitted on the forms provided, and may adopt rules necessary to ensure prompt and accurate reporting.

Subd. 7. Immunity for reporting. A person, health care facility, business, or organization is immune from civil liability or criminal prosecution for reporting to

the commissioner violations or alleged violations of this chapter. All such reports are classified under section 13.41.

Subd. 8. **Immunity for investigation.** The commissioner, employees of the Minnesota Department of Health, consultants to the department, and advisory council members are immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of, or relating to, their duties under this chapter.

Sec. 17. **[148F.16] FEES.**

Subdivision 1. **Initial licensure fee.** The initial licensure fee for medical laboratory scientist, categorical medical laboratory scientist, medical laboratory specialist in molecular biology, medical laboratory specialist in cytogenetics, histocompatibility technologist, other specialists and categoricals, and medical laboratory technicians is \$..... The commissioner shall prorate fees based on the number of quarters remaining in the triennial licensure period.

Subd. 2. **Licensure renewal fee.** The triennial licensure renewal fee for medical laboratory scientist, categorical medical laboratory scientist, medical laboratory specialist in molecular biology, medical laboratory specialist in cytogenetics, histocompatibility technologist, other specialists and categoricals, and medical laboratory technicians is \$.....

Subd. 3. **Late fee.** The fee for late submission of a renewal application is \$45.

Subd. 4. **Temporary licensure fee.** The fee for temporary licensure is \$50.

Subd. 5. **Verification to other states.** The fee for verification of licensure to other states is \$25.

Subd. 6. **Verification to institutions.** The fee for verification of licensure to institutions is \$10.

Subd. 7. **Nonrefundable fees.** All fees are nonrefundable.

Subd. 8. **Penalty fees.** (a) The penalty fee for practicing medical laboratory science without a current license after the credential has expired and before it is renewed is the amount of the license renewal fee for any part of the first month, plus the license renewal fee for any part of any subsequent month up to 36 months.

(b) The penalty fee for applicants who engage in the unauthorized practice of medical laboratory science before being issued a license is the amount of the license application fee for any part of the first month, plus the license application fee for any part of any subsequent month up to 36 months. This paragraph does not apply to applicants not qualifying for a license who engage in the unauthorized practice of medical laboratory science.

20.1 (c) The penalty fee for failing to submit a continuing education report by the due
20.2 date with the correct number or type of hours in the correct time period is \$50. The
20.3 licensee must obtain the missing number of continuing education hours by the next
20.4 reporting due date.

20.5 (d) Civil penalties and discipline incurred by licensees prior to January 1, 2011, for
20.6 conduct described in paragraph (a), (b), or (c), shall be recorded as nondisciplinary penalty
20.7 fees. For conduct described in paragraph (a) or (b) occurring after January 1, 2011, and
20.8 exceeding six months, payment of a penalty fee does not preclude any disciplinary action
20.9 reasonably justified by the individual case.

20.10 Sec. 18. **ADVISORY COUNCIL; DEADLINES.**

20.11 The commissioner of health shall complete the first appointments required by
20.12 Minnesota Statutes, section 148F.05, no later than September 1, 2009. The commissioner's
20.13 designee shall convene the first meeting of the council no later than October 1, 2009.
20.14 The council must select its chair as required by Minnesota Statutes, section 148F.05, at
20.15 the first meeting of the council.

20.16 Sec. 19. **EFFECTIVE DATE.**

20.17 Setup of licensing functions and creation of the advisory council shall be effective
20.18 July 1, 2009. Licensure shall be effective January 1, 2011.